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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/515,928 02/29/2000		Bert Whitmore Elliott	24673A	1357	
7:	590 09/16/2004		EXAMINER		
OWENS CORNING 2790 COLUMBUS ROAD			VARNER, STEVE M		
BUILDING 54			ART UNIT	PAPER NUMBER	
GRANVILLE, OH 43023			3635		
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DATE MAILED: 09/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. 08/15/9.28 Examiner Steve M Varner 3833 - The MAILING DATE of this communication appears on the cover sheet with the correspondence address - Period for Repty A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE of THIS COMMUNICATION. Substances of the may be available under the productor of 3 CPF1. 138(a). In no event, however, may a repty be timely that State of the may be available under the productor of 3 CPF1. 138(a). In no event, however, may a repty be timely that If the period for reply a pecified shows, the maximum shadory period will apply and will subside the period of the correspondence directly. If the period for reply a pecified shows, the maximum shadory period will apply and will subside the period of the communication. If the period for reply a pecified shows, the maximum shadory period will apply and will subside the considered timely. If the period for reply a pecified shows, the maximum shadory period will apply and will subside the considered timely. If the period for reply a pecified shows, the maximum shadory period will apply and will subside the considered timely. If the period for reply a pecified shows, the maximum shadory period will apply and will apply any any any period on a period construction. Any any forecased by the Office sheet the three morths after the maining date of this communication, even if smedy filed, may reduce any standard period of the period of the communication of the period of the period of the communication of the period of t									
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Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAIL IND DATE OF THIS COMMUNICATION. - after SIX (%) MONTHS from the making date of his communication. - if the period reply specified above, the maxing date of his communication. - if the period reply specified above, the maxing date of his communication. - if No. period for reply is specified above, the maxing date of his communication. - if No. period for reply specified above, the maxing date of his communication. - if No. period for reply specified above, the maxing date of his communication. - if No. period for reply specified above, the maxing date of his communication. - if No. period for reply specified above, the maxing date of his communication, when if the period date of the communication are marked to the communication of the communication. - Any reply received by the Official than these monitors after the melting date of the communication, when if timely filled, may reduce any secure any security of the communication of the com									
THE MAILING DATE OF THIS COMMUNICATION. Extractions or time may be available under the provisions of 3 C.PR. 1.38(a). In no event, however, may a reply be limited filled effect SX. (8) MONTISE from the mailing date of this communication. If the period to resply section date or is less than the (SQ) days, a reply, within the statution provisions of thirty (SQ) days and the considered trilled). Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (38 U.S.C. § 133). Any reply received by the Office bett than three amonials after the mailing date of this communication, even if timely filled, may reduce any owner of the communication of the communication of the communication of the communication is not not filled. 1) Responsive to communication(s) filled on 23 April 2002. 2a) This action is FINAL. 2b) This action is filled. 2b) This action is filled. 2c) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-26 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) 1-26 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) 1-26 is/are rejected. 7) Claim(s) is/are objected to by the Examiner. 10) The grediction is objected to by the Examiner. 10) The drawing(s) filled on is/are: a) accepted or b) objected to by the Examiner. 11) The proposed drawing sare required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. 12) The oath or declaration is objected to by the Examiner. 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). 14) Acknowledgment is made of a claim for domestic priority documents have been received. 15) Acknowledgment is made of a claim for domest									
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DETAILED ACTION

The advisory action of 6/7/02 is withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, 9, 10, 17, 18, 25, 26, are rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver et al. in view of Blanpied.

Regarding claims 1, 9, 10, 17, 25, 26; Weaver et al. shows a laminated shingle (Title). It has an overlay member (30) with tabs (36) with granules (Col. 1, Line 30-40) and an underlay member (50) attached. (Fig. 1) It has tabs of relatively or not absolutely uniform color (Abstract). It is obvious that the tabs would have substantially which implies not absolutely uniform color. Please see Response to Arguments.

Blanpied has tabs of different colors, which are not substantially uniform in color. (Fig. 1) It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Weaver et al. with the different color tabs which are not substantially uniform in color of Blanpied because shingles such as Weaver et al. are often used in a variety of architectural settings where it would be desirable to have different colors for aesthetic reasons. It would be an obvious design choice to align the color blends horizontally between the tabs and cut outs to achieve a certain architectural affect. It would have been an obvious design choice to use tabs of

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different colors each with substantially uniform color for aesthetic reasons. It is common knowledge that shingles are used multiply to form a covering for a roof. It would have been an obvious design choice to have a 60% of plurality of tabs have a first background color comprising a light gray, approximately 25% of the plurality of tabs have a second background color, comprising dark gray, and about 15 percent of the tabs have a third color other than gray to simulate slate. It would have been an obvious design choice to choose the third color comprises purple or any other color so desired for aesthetic reasons.

Regarding claim 2, Weaver et al. shows dark underlay granules. (Fig. 1)

Regarding claim 18, Weaver et al. shows the overlay cutouts exposing portions of the underlay members (Fig. 1).

Claims 3, 11, 19, are rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver et al. in view of Blanpied in further view of Stapleton.

Regarding claims 3, 11, 19, Weaver et al. in view of Blanpied shows the basic claimed structure. Weaver et al. in view of Blanpied does not show a layer of dark granules on the front surface. Stapleton shows a layer of dark granules on the front surface. (Fig. 1) It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use a layer of dark granules for aesthetic reasons.

Claims 4-6, 8, 12, 13, 15, 16, 20, 21, 22, 24, is rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver et al. in view of Phillips.

Regarding claims 4, 12, 20, Weaver et al. does not show a layer of dark granules applied to the lower edge and upper edge of the tabs of the overlay member. Philips

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shows a layer of dark granules applied to the lower edge and the upper edge of the tabs of the overly member. (Fig. 1) It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply dark granules randomly for aesthetic reasons.

Regarding claims 5, 13, 21, Weaver et al. does not show rectangular tabs.

Philips shows rectangular tabs. (Fig. 1) It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Weaver et al. with the rectangular tabs of Philips for aesthetic reasons.

Regarding claims 6, 16, 22, Weaver et al. does not show co-linear overlay/underlay members. Philips does show these co-linear. (Fig. 1) It would be obvious to one of ordinary skill in the art at the time the invention was made to modify Weaver et al. with the co-linear overlay/underlay members of Philips for aesthetic reasons.

Regarding claims 8, 15, 24, Weaver et al. does not show varying tab width.

Philips shows varying tab width. (Fig. 1) It would be obvious to one of ordinary skill in the art at the time the invention was made to modify Weaver et al. with the varying tab widths of Philips for aesthetic reasons.

Claims 7, 14, 23, are rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver et al. in view of Phillips in further view of Bondoc et al.

Regarding claims 7, 14, 23, Weaver et al. does not show beveled edges.

Bondoc et al. shows corresponding beveled edges on the overlay and underlay members. It would be obvious to one of ordinary skill in the art at the time the invention

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was made to modify Weaver et al. with the beveled edges of Bondoc et al. for aesthetic reasons.

Response to Arguments

Applicant's arguments filed 4/23/02 have been fully considered but they are not persuasive.

Applicant argues that Stapleton and Blanpied fail to include the limitation of substantially uniform in color.

Weaver et al. shows relatively uniform color, which is not absolutely uniform. Substantially also implies not absolutely uniform. Even if substantially is taken as a narrower word than relatively, it would have been obvious to have substantially uniform color for aesthetic reasons. The improvement from relatively to substantially uniform color would be a matter of degree within ordinary skill in the art.

Applicant argues that the uniform color has a significant utilitarian functional value to look like a slate roof to command a premium price as a substitute for slate.

Applicant argues that the purpose of the darker and lighter shading is to give the shingle a perception of depth, which is utilitarian.

Examiner maintains that to make something look like something else is an aesthetic design choice and is within ordinary skill in the art especially when the attribute changed is merely the uniformity of color or the shading.

Examiner notes that the color blend is substantially uniform in color and produced by granules of different color (Spec. Page 5, Line 15-25). This is the same method used to make the relatively uniform color of Weaver et al. (Col. 3, Line 60-end).

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It follows that the method of Weaver et al. could be used to form substantially uniform color.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve M Varner whose telephone number is 703 308-1894. The examiner can normally be reached on M-F 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D Friedman can be reached on 703 308-08390839. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-

1113.

September 10, 2004

Carl D. Friedman
Supervisory Patent Examiner
Group 3600